



CRUMBIE
LAW GROUP
LLC

**Testimony of Mark Dumas on behalf of the
Connecticut State Conference of the NAACP
Judiciary Committee Public Hearing
March 26, 2009**

**Senate Joint Resolution 46, Resolution Proposing an Amendment to
the Constitution of the State Concerning the Procedures of the Courts**

Senator McDonald, Representative Lawlor, and members of the Committee, my name is Mark Dumas and I am an attorney at the Crumble Law Group in Hartford. I am testifying today on behalf of our client, the Connecticut State Conference of the NAACP.

The NAACP's president, Scot X. Esdalle, apologizes for not being able to testify in person, but Mr. Esdalle and the Connecticut NAACP believe it is important that they show support for the Judicial Branch, which has made important strides towards promoting diversity and insuring that our state courts serve as a level playing field. In particular, we would like to thank Chief Justice Rogers, Justice Borden, Judge Quinn, and the entire Judicial Branch for all of their work in support of our shared goals of a diverse, fair, and accessible court system.

Today you have heard many people speak about the importance of a Constitutional separation of power, accountability, and the need for court procedures that can adapt to rapidly changing needs. Those are important issues that you know well, but those issues have a special meaning for the NAACP.

This year, the NAACP is celebrating its 100th anniversary. Over the course of that historic century, our courts have been the last bastion of hope for many Americans who have faced grave injustices because politically powerful forces allowed discrimination to be institutionalized in our schools, restaurants, and public

transportation. But when a little girl in Kansas wanted to go to her neighborhood school, the courts said, "Let her in." When a secretary in Alabama wanted to sit in the front of a local bus, the courts said, "Let her ride." When the NAACP was ignored in the marble halls of state legislatures and the carpeted offices of governors' mansions, the courts said, "Let them be heard."

Today, we want to return that favor.

As you well know, the legislative process is not always as idealistic as our civic books sometimes lead us to believe. Those who can afford to hire lobbyists and make political contributions can more easily change the law or crush reform. Historically, minorities have not been in those positions of power, but they have always had fair, open, and responsive courts to provide a level playing field.

But if this resolution is approved and if our Constitution is amended, it will be more difficult for the courts to respond to the needs of disadvantaged litigants.

So please ask yourself these questions:

Who will help the *pro se* mother when a court rule passed by the legislature has unintended consequences that are unfair to her?

What will she do when a court says, "We wish we could do the right thing, but the rule is clear and only the legislature can change it?"

What will she do when the legislature is too distracted by an important crisis or too focused on an issue that will make the front page of tomorrow's paper to change a subsection of a rule that won't provide more votes, contributions, or publicity?

What will she do?

The simple fact is that neither the courts nor the legislature are perfect, but when the courts make a mistake they can more easily fix it. This is what our state courts have done for 200 years. This is what Justice Borden, Chief Justice Rogers, and Judge Quinn have been doing for the past two years. This is what the Judicial Branch will continue to do if you let it do what it does best.

As you probably understand, this proposal is, at its core, about one thing: power.

The courts say they should have the power.

Some in the legislature say it should have the power.

But the Connecticut NAACP is not worried about which branch has more power. We are worried about the people who do not have any power.

The Judicial Branch has shown that it cares about the same thing. Our judges strive to create a level playing field that listens to the powerful and the powerless. Our courts have shown that they will create rules that are fair, open, and responsive. And as the saying goes, "If it ain't broke, don't fix it."

The Judicial Branch has been a great friend to the NAACP, as has this General Assembly. And as one friend to another, we ask you to vote against this unnecessary resolution.